

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:08cv117**

NEWELL G. RATHBONE,)	
)	
Plaintiff,)	
)	
Vs.)	ORDER
)	
HAYWOOD COUNTY, a body politic,)	
)	
Defendant.)	
_____)	

THIS MATTER is before the court on plaintiff's Motion to Stay Requirement to File CIAC. For cause, plaintiff states that a Motion to Dismiss has been filed in addition to the Answer. No Order staying such requirement is, however, inasmuch as the CIAC is not due until such time as the briefed Motion to Dismiss is resolved:

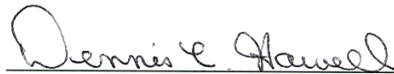
(D) Joinder of the Issues. For the limited purpose of these Local Civil Rules, "joinder of the issues" occurs when the final answer to a complaint, third-party complaint, or crossclaim or the final reply to counterclaim has been filed, or the time for doing so has expired. Rule 12 motions contained in an Answer, but not supported by a brief, act as placeholders and do not prevent joinder of the issues. **Where Rule 12 motions are filed and briefed, issues will not join until such motions are resolved by the court,** unless otherwise ordered by the Court.

L.Cv.R. 16.1(D)(emphasis added). It is joinder of the issues under such rule that triggers the requirement of conducting an IAC and filing a CIAC under Local Civil Rules 16.1(A) and 16.1(B), respectively.

ORDER

IT IS, THEREFORE, ORDERED that plaintiff's Motion to Stay Requirement to File CIAC (#8) is respectfully **DENIED** as moot.

Signed: June 19, 2008



Dennis L. Howell
United States Magistrate Judge

